

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

DAVINO WATSON,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM & ORDER

14-CV-6459


FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ **NOV 17 2015** ★


BROOKLYN OFFICE

JACK B. WEINSTEIN, Senior United States District Judge:

The court has considered the government's motion, dated November 13, 2015, and supporting papers seeking partial reconsideration of the court's Memorandum and Order of September 29, 2015 ("Order").

The issues raised have been thoroughly briefed and considered by the court. The Court of Appeals has increasingly recognized that it is appropriate for the court to conduct a reasonable assessment of the resources of a limited plaintiff who was doing everything he could to, first and foremost, secure his freedom. *See Martinez v. Superintendent of Eastern Correctional Facility*, No. 14-1513, --- F.3d ----, 2015 WL 6874961, at *4-6 (2d Cir. 2015). Here, plaintiff, a young man with only an 11th grade education, was reasonably focused on securing his release from detention first, rather than on commencing an action against the United States for damages. Notwithstanding this focus, he persisted in claiming that he was a United States citizen, even in the face of several government officials who told him otherwise. The facts of this case are the quintessential example of the situation in which the court's use of its equitable tolling power is appropriate.

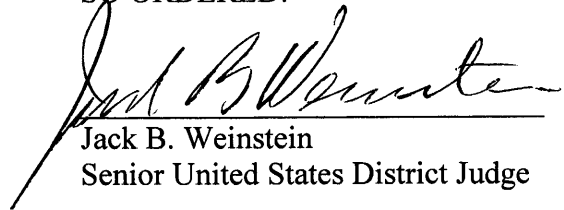
This case demonstrates why access to counsel is necessary in immigration matters. If plaintiff had counsel upon his initial detention, it is likely that he would promptly have been



found to be a United States citizen and released. *See* Order at 1 (citing *New York Immigrant Representation Study Report, Accessing Justice: The Availability and Adequacy of Counsel in Immigration Proceedings* (Pt. 1), 33 Cardozo L. Rev. 357 (Dec. 2011)).

There is no basis at this time for reconsideration of the Order. The government's motion is denied. No oral argument is required.

SO ORDERED.



Jack B. Weinstein
Senior United States District Judge

Dated: November 17, 2015
Brooklyn, New York